

Serial No.: 10/629,976
 Filed: July 30, 2003

APPENDIX A

REMARKS

Rejection of Claims under 35 U.S.C. § 102

The Examiner has rejected claims 16-24 under 35 U.S.C. § 102(e) as being anticipated by Jones et al., U.S. Patent No. 6,512,098.

The Examiner has refused to enter the amendment to the specification filed on November 14, 2006, which amends the priority claim in the present application to include that the present application is a continuation of Application No. 09/824,827, filed April 2, 2001, Patent No. 6,627,744, which in turn claims the benefit of U.S. patent applications Ser. No. 09/347,029, filed Jul. 2, 1999, Patent No. 6,512,098, and Ser. No. 09/556,466, filed Apr. 21, 2000. The Examiner states that "The changes made to 35 U.S.C. § 102 (e) by the American Inventors Protection Act of 1999 and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. § 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e))".

Applicants respectfully traverse the rejection for the following reasons.

The present application is a continuation application of application Serial No. 09/824,827, which was filed on April 4, 2002 and issued as U.S. Patent 6,627,744. A copy of the Utility Application Transmittal is attached as Exhibit A. Exhibit A shows that the present application was filed as a continuation of prior U.S. application Serial No. 09/824,827, and it directs the Office to amend the specification by inserting before the first line the sentence: --This is a continuation of application Serial No. 09/824,827, filed April 2, 2001-- The specification as filed also discloses a priority claim to U.S. Patent Applications 09/347,029, filed July 2, 1999 and 09/556,466, filed April, 2000 (see page 1 of the specification). Parent application Serial No. 09/824,827 was filed as a U.S.

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application as a continuation-in-part of prior U.S. applications 09/347,029 and 09/556,466 (see attached copy of the Transmittal for New Utility Application – Exhibit B). Priority to U.S. applications 09/347,029 and 09/556,466 is also provided in the Declaration and Power of Attorney that was filed in the 09/824,827 case (see Exhibit C), further evidenced in the filing receipt (Exhibit D), and finally acknowledged in the Notice of Allowability (see Exhibit E).

The patent cited in the present 102 (e) rejection (U.S. Patent 6,512,098) was filed as U.S. application 09/347,029. Patent 6,512,098 did not result directly or indirectly from an international application filed before November 29, 2000. Patent 6,512,098 filed as application 09/347,029 was filed on July 2, 1999 as a U.S. application which claimed priority to U.S. Provisional applications 60/131,446 and 60/091, 687 (see Declaration and Power of attorney – Exhibit F). The priority claim of the cited patent is also disclosed in the attached copy of the Filing Receipt (Exhibit G), and acknowledged in the Notice of Allowability that was issued in the cited case (see Exhibit H). Thus, the present application may claim priority to U.S. application 09/347,029, and issued U.S. Patent 6,512,098 does not provide the basis for a rejection under 35 U.S.C. § 102(e) in the present application.

Based on the foregoing, applicants request that the amendment to the specification be entered, and that the rejection of the claims under 35 U.S.C. § 102(e) be withdrawn.

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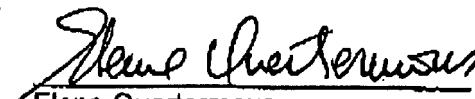
CONCLUSION

Applicants believe the pending claims are in condition for allowance and issuance of a formal Notice of Allowance at an early date is respectfully requested. If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (650) 846-76236.

The Commissioner is authorized to charge any fees that may be required in connection with this submission and to credit any overpayments to Deposit Account No. 07-1048 (Attorney Docket No. GC541-4-C1).

Respectfully submitted,

Date: February 9, 2007


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